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# No halt in suit vs. CIA

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PROVIDENCE — After a four-week pause, the case of the Central Intelligence Agency and a Rhode Island man is ready to move ahead.

A federal judge has turned down requests to stop proceedings in a case that claims the CIA opened, read and copied the mail of tens of thousands of individuals.

Chief Judge Raymond J. Pettine denied motions filed by a Brown University professor and U. S. government lawyers to stay court action. The motions claimed that many past and present government officials named in the lawsuit are, or soon may be, subjects of a criminal investigation.

The U. S. Department of Justice told the court the department is conducting a preliminary investigation into the CIA's "East Coast Mail Intercept Program." The outcome could be criminal indictments, the Justice Department said.

Besides the Justice Department, a motion to stay proceedings had been filed for former CIA official Lyman B. Kirkpatrick Jr., now teaching at Brown. The possibility was raised by the motion that Kirkpatrick may be subject to criminal indictment as a result of the Justice Department investigation.

Kirkpatrick, who gave secret testimony last winter in the Rockefeller Commission's investigation of CIA spying activities, served in the CIA from 1947 to 1965. In his last three years there, he was executive director-comptroller — the number three man in the agency.

The motions were denied, the judge wrote, because they failed to show that the need for a stay outweighed the harm to those who filed suit. The case was filed this summer by the American Civil Liberties Union as a "class action" suit on behalf of University of Rhode Island mathematics professor Rodney D. Driver and anyone else who believes he has reason to join Driver.

Driver charges that three of his letters to Moscow were opened, read and photographed by the CIA before being delivered. The letters were written, Driver said later, after he attended international mathematics conferences in the Soviet Union in the 1960s.

Driver has filed copies of the letters he says the CIA sent him after he requested them under the Freedom of Information Act.

One letter, in part, expresses Driver's condolences for the death of a professor's daughter, enjoyment of a visit to Kiev ("despite the inconvenience of my 4 days in hospital") and an offer to send a copy of Driver's paper on a problem in "classical relativistic electrodynamics."

In another letter, apparently to a couple, Driver's message is followed by comments from his wife, Carole. She expresses her thanks for "the very lovely necklace."

A third letter contains a list of publications in scholarly journals of mathematics.

As a class action, Driver's lawsuit has been joined by individuals in New York, Minnesota, California, and Connecticut.

Nov. denied, the next order of business appears to be the filing of replies by the 32 officials, past and present, who are being sued. A few replies had trickled in earlier, all denying knowledge or recollection of any mail-opening operation by the CIA.

However, Judge Pettine's law clerk, Lynette Labinger, won't be able to help with the case.

The judge has notified lawyers on both sides of the case that Miss Labinger, her parents and a grandmother, have traveled in and corresponded to and from the Soviet Union at various times between 1953 and 1973.

She therefore may be a member of the class of individuals on whose behalf the lawsuit was filed. "In view of her potential interest in the outcome of this case," the judge wrote, "I have instructed her to take no part in assisting me in my consideration of any aspect of these proceedings."

Miss Labinger, who comes from Los Angeles, became the judge's law clerk last year after graduating from New York University Law School at the head of her class.